

CHAPTER 8

HIGHWAYS

S. F. 117

AN ACT to amend, revise, and codify sections twenty-seven hundred ninety-nine (2799), twenty-eight hundred sixteen (2816), twenty-eight hundred twenty-six (2826) to two thousand eight hundred thirty-three (2833), inclusive, and section twenty-nine hundred forty-three (2943) of the compiled code of Iowa and of the supplement to said code, relating to the establishment, vacation, and alteration of highways, to the erection and maintenance of bridges, and to the condemnation, establishment, and improvement of primary roads in cities and towns.

Be it enacted by the General Assembly of the State of Iowa:

That section twenty-seven hundred ninety-nine (2799) of the compiled code of Iowa is amended, revised, and codified to read as follows:

1 **SECTION 1. Substituting other road.** The commissioner shall not
2 be confined to the precise matter of the petition, but may inquire and
3 determine whether that or any road in the vicinity, answering the
4 same purpose and in substance the same, be required.

1 **SEC. 2. Property exempt for road purposes.** No road shall be estab-
2 lished through any cemetery. No road shall, without the owner's
3 consent, be established through any orchard, or ornamental grounds
4 contiguous to any dwelling house, or so as to cause the removal of
5 any dwelling house or other substantial, permanent, and valuable
6 building.

That section twenty-eight hundred sixteen (2816) of the compiled code of Iowa is amended, revised, and codified to read as follows:

1 **SEC. 3. Plat and field notes.** After a road has been finally estab-
2 lished or altered, the plat and field notes must be recorded by the
3 auditor.

1 **SEC. 4. Opening and working.** Township roads shall be opened and
2 worked by the township trustees. County and primary roads shall
3 be opened and worked by the board of supervisors.

That sections twenty-eight hundred twenty-six (2826) to two thousand eight hundred thirty-three (2833), inclusive, of the compiled code of Iowa, and of the supplement to said code, are amended, revised, and codified to read as follows:

1 **SEC. 5. Changes for safety, economy, and utility.** Boards of super-
2 visors on their own motion may change the course of any part of any
3 road or stream, water course, or dry run, within any county in order
4 to avoid the construction and maintenance of bridges, or to avoid
5 grades, or railroad crossing, or to straighten any road, or to cut off
6 dangerous corners, turns, or intersections on the highway, or to widen
7 any road above statutory width, or for the purpose of preventing the
8 encroachment of a stream, water course, or dry run, upon a public
9 highway.

1 **SEC. 6. Costs.** The cost entailed by a change in a highway as pro-
2 vided in the preceding section shall be paid:

3 1. From the primary road fund in case the change is on a primary
4 road.

5 2. From the county road fund or from the county bridge fund, or
6 from both of said funds, in case the change is on a county or town-
7 ship road.

1 **SEC. 6-a1. Reimbursement.** Where any town or city, including spe-
2 cial charter, commission plan and manager plan cities, having a popu-
3 lation of less than twenty-five hundred (2500) has heretofore, and
4 since the enactment of chapter two hundred thirty-seven (237), acts
5 of the thirty-eighth general assembly, procured at its own expense
6 right-of-way for a primary road, the board of supervisors is authorized
7 to reimburse said city or town from the primary road fund for the
8 cost of such right-of-way.

1 **SEC. 7. Report and survey.** Unless the action of the board is based
2 on the recommendations of an engineer, accompanied by a report on
3 the proposed changes, and a plat and survey of the proposed change,
4 the board shall order an engineer to make such report and survey and
5 return the same on or before a day fixed. In making the survey, the
6 engineer shall have the right to enter upon any premises affected by
7 the proposed change.

1 **SEC. 8. Appraisers.** If the board is unable, by agreement with the
2 owner, to acquire the necessary right of way to effect such change,
3 three freeholders shall be selected to appraise the damages conse-
4 quent on the taking of the right of way. The board of supervisors
5 shall select one of said appraisers. The owner or owners of the land
6 sought to be taken shall select one of said appraisers. The two ap-
7 praisers so selected shall choose the third appraiser. In case the
8 owners do not exercise their said right or in case they are unable to
9 agree as to an appraiser, or in case their appointee fails to appear
10 and qualify, the said board of supervisors shall appoint two appraisers
11 and said two appointees shall choose the third appraiser. If the two
12 appraisers selected shall fail within ten days to select a third, or the
13 third appraiser so selected shall fail to serve, then the board of super-
14 visors shall select the third appraiser.

1 **SEC. 9. Notice.** The county auditor shall cause notice to be served
2 on the individual owner of each tract or parcel of land to be taken for
3 such right-of-way, as shown by the transfer books in the office of such
4 county auditor, and upon each person owning or holding a mortgage,
5 or lease upon such land as shown by the county records and upon the
6 actual occupant of such land if other than the owner thereof.

7 To whom it may concern: Notice is given that the board of super-
8 visors of.....county, Iowa, propose to condemn for
9 road purposes the following described real estate in said county:
10 (Here describe the right of way, and the tract or tracts from which
11 such right of way will be taken). The damages caused by said con-
12 demnation will be assessed by three appraisers. Notice is hereby
13 given that the owner or owners of said real estate may, on or before
14 the.....day of....., appoint
15 one of said appraisers and that in case such right be not exercised, or
16 if exercised and the said appointee fails to appear and qualify, the said
17 three appraisers will be otherwise appointed as provided by law. All
18 parties interested are further notified that said three appraisers will,

19 when duly appointed, proceed to appraise said damages, will report
 20 said appraisal to the said board of supervisors and that said latter
 21 board will pass thereon as provided by law, and that at all such times
 22 and places you may be present if you be so minded. You are further
 23 notified that at said hearing before the said supervisors you may file
 24 objections to the use of said land for road purposes and that all such
 25 objections not so made will be deemed waived.

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 27

.....
 County Auditor.

1 **SEC. 10. Service of notice.** Owners, occupants and mortgagees of
 2 record who are residents of the county shall be personally served in
 3 the manner in which and for the time original notices in the district
 4 court are required to be served. Owners and mortgagees of record
 5 who do not reside in the county and owners and mortgagees of record
 6 who do reside in the county when the officer returns that they can not
 7 be found in the county, shall be served by publishing the notice in
 8 one (1) of the official newspapers of the county, once each week for
 9 two (2) weeks, and also by mailing by registered mail a copy of such
 10 notice to such owner and mortgagee of record addressed to his last
 11 known address and the county auditor shall furnish to the board of
 12 supervisors his affidavit that such notice has been sent, which affi-
 13 davit shall be conclusive evidence of the mailing of such notice. Per-
 14 sonal service outside the county but within the state shall take the
 15 place of service by publication. No service need be had on one who
 16 has exercised his right to select an appraiser.

1 **SEC. 11. Qualification and assessment.** Upon the appointment of
 2 three appraisers, the county auditor shall cause them to appear be-
 3 fore him and to take oath that they will faithfully and impartially
 4 assess the damages claimed. Said appraisers shall forthwith proceed
 5 to the assessment of said damages and make written report thereof
 6 to the board of supervisors.

1 **SEC. 12. Hearing—adjournment.** The board shall proceed to a
 2 hearing on the objections or assessment of damages of any owner,
 3 mortgagee of record, and the actual occupant of such land if any of
 4 whom it has acquired jurisdiction, or if there be owners, mortgagee
 5 of record, and the actual occupant of such land if any over whom
 6 jurisdiction has not been acquired, the board may adjourn such hear-
 7 ing until a date when jurisdiction will be complete as to all owners.

1 **SEC. 13. Hearing on objections.** The board shall, at the final hear-
 2 ing, first pass on the objections to the proposed change. If objections
 3 be sustained the proceedings shall be dismissed unless the board finds
 4 that the objections may be avoided by a change of plans, and to this
 5 end an adjournment may be ordered, if necessary, in order to secure
 6 service on additional parties.

1 **SEC. 14. Hearing on claims for damages.** When objections to the
 2 proposed change are overruled, the board shall proceed to determine
 3 the damages to be awarded to each claimant. If the damages finally
 4 awarded are, in the opinion of the board, excessive, the proceedings
 5 shall be dismissed; if not excessive, the board may, by proper order,
 6 establish such proposed change.

1 SEC. 15. **Appeals.** Claimants for damages may appeal to the dis-
2 trict court from the award of damages in the manner and time for
3 taking appeals from the orders establishing highways generally.

1 SEC. 16. **Damages on appeal—rescission of order.** If the damages
2 as finally determined on appeal be, in the opinion of the board, exces-
3 sive, the board may rescind its order establishing such change.

1 SEC. 17. **Record of change.** The board shall cause a full and de-
2 tailed record to be made in the road book of all plats and surveys and
3 all other proceedings pertaining to changes hereinbefore authorized.

1 SEC. 18. **Tender of damages.** No appeal from an award of damages
2 shall delay the prosecution of the work when the amount of the award
3 is tendered in writing to the claimant and such tender is kept good.
4 An order to the auditor to issue warrants to claimants for damages
5 shall constitute a valid tender, if funds are available to promptly meet
6 such warrants. Acceptance of the amount of such tender bars an
7 appeal. Should possession of the condemned premises be taken pend-
8 ing appeal and the final award be not paid, the county shall be liable
9 for all damages caused during such possession.

That section twenty-nine hundred forty-three (2943) of the supplement to the compiled code of Iowa is amended, revised, and codified to read as follows:

1 SEC. 19. **Condemnation and improvement within cities and towns.**
2 The board of supervisors is hereby given plenary jurisdiction subject
3 to the approval of the council to purchase or condemn right-of-way
4 therefor and grade, drain, gravel, or hard surface any road or street
5 which is a continuation of the primary road system of the county and
6 which is:

7 1. Within any town, or

8 2. Within any city, including cities acting under special charter,
9 having a population of less than twenty-five hundred, or

10 3. Within that part of any city, including cities acting under spe-
11 cial charter, where the houses or business houses average not less than
12 two hundred (200) feet apart.

13 The primary road fund shall not be charged with the cost of hard
14 surfacing within the cities and towns specified above in excess of the
15 cost of hard surfacing which is eighteen (18) feet in width.

16 After the completion of such improvement the same shall be main-
17 tained by the city or town and such city or town shall rest under the
18 same obligation of care as to such improvements as is now provided
19 by law for roads and streets generally.

20 Any such city or town through its council and each county of the
21 state through its board of supervisors are hereby authorized to enter
22 into written agreements subject to the approval of the state highway
23 commission to determine the location of such improvements within
24 such cities or towns. In case of disagreement the matter shall be
25 referred to the state highway commission, whose decision shall be
26 final. The board of supervisors shall not drain, grade, gravel or hard
27 surface any highway within the limits of cities other than those
28 specified herein.

1 SEC. 20. **Publication.** This act being deemed of immediate im-
2 portance shall take effect from and after its publication in the Des

3 Moines Register, a newspaper published in the city of Des Moines,
 4 Iowa, and the Cherokee Chief, a newspaper published in the city of
 5 Cherokee, Iowa, without expense to the state.

Approved March 17, A. D. 1924.

I hereby certify that the foregoing act was published in the Cherokee Chief April 14, 1924,
 and the Des Moines Register March 20, 1924.

W. C. RAMSAY, *Secretary of State.*

CHAPTER 9

INSURANCE

S. F. 207

AN ACT to amend, revise, and codify section five thousand four hundred sixty-three (5463) of the compiled code of Iowa, and sections five thousand four hundred sixty-three-a one (5463-a1), five thousand four hundred sixty-three-a two (5463-a2), and five thousand four hundred sixty-three-a three (5463-a3), of the supplement to the compiled code, relating to the insurance department; section five thousand four hundred ninety-six (5496) of the supplement to the compiled code, relating to life insurance companies; section five thousand five hundred two (5502) of the compiled code, relating to group life insurance; sections five thousand six hundred five (5605) of the supplement to the compiled code, five thousand six hundred nine (5609), five thousand six hundred seventeen (5617), and five thousand six hundred eighteen (5618) of the compiled code, relating to insurance other than life; and sub-section eight (8) of section five thousand six hundred twenty-seven (5627) of the supplement to the compiled code, relating to insurance other than life; and amending chapter 4, title XVIII. of the compiled code, relating to assessment insurance, by inserting after section five thousand five hundred nine (5509) certain provisions in relation to the right of members of such associations to vote.

Be it enacted by the General Assembly of the State of Iowa:

That section five thousand four hundred sixty-three (5463) of the compiled code, and sections five thousand four hundred sixty-three-a1 (5463-a1), five thousand four hundred sixty-three-a2 (5463-a2) and five thousand four hundred sixty-three-a3 (5463-a3), of the supplement to the compiled code, relating to the insurance department, are amended, revised, and codified to read as follows:

1 **SECTION 1. Powers and duties of commissioner insurance.** The
 2 commissioner of insurance shall be the head of the insurance depart-
 3 ment of Iowa, and shall have general control, supervision and direc-
 4 tion over all insurance business transacted in the state of Iowa, and
 5 shall enforce all the laws of the state relating to such insurance. He
 6 shall supervise all transactions relating to the organization, reorgani-
 7 zation, liquidation and dissolution of domestic insurance corporations,
 8 and all transactions leading up to the organization of such corpora-
 9 tions. He shall also supervise the sale in the state of Iowa of all
 10 stock, certificates, or other evidences of interest, either by domestic
 11 or foreign insurance companies or organizations proposing to engage
 12 in any insurance business.

1 **SEC. 2. No stock sold or members solicited without certificate.**
 2 Neither the stock in an insurance company nor the membership in
 3 an insurance association in process of organization shall be sold or